



Writ Appeal No.1390 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 10.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.1390 of 2014
and M.P.No.1 of 2014**

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai – 600 009.

2. The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.

3. The Commissioner,
Kumarapalayam Municipality,
Namakkal District.

... Appellants/ Respondents

Vs

1. A.Ravi
2. K.Anandan
3. M.Veeramani
4. S.Sakthivel
5. S.Kumar
6. C.K.Baskaran
7. C.Selvakumar
8. D.Sampathkumar
9. K.Venkatesan
10. R.Subramanian
11. A.Prabu
12. A.Sampath Prabu
13. R.Raja



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14. S.Raja
15. C.Vijayan
16. O.Valli
17. P.Kumar
18. K.Dhanalakshmi
19. N.Radhamani
20. P.Sivagami
21. M.Ganapathy
22. K.Vijaya
23. R.Dhanalakshmi
24. K.Krishnan
25. M.Palanisamy
26. M.Samundeeswari
27. S.Mariammal
28. S.Mahendran
29. K.Selvaraj
30. M.Kalliappan
31. P.Chellan
32. M.Janaki
33. M.Ganesan
34. K.Devi
35. M.Rama
36. M.Gannasekaran
37. K.Siva
38. M.Ganesh
39. M.Parthiban
40. D.Ramakrishnan
41. M.Suresh
42. S.Manickam
43. S.Kathirvel
44. C.Lakshmi
45. M.Dharmaraj
46. Arukkani
47. R.Perumal
48. R.Mallika
49. P.Ramasamy
50. P.Senthil Murugan
51. P.Palanisamy
52. S.Sankar



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53. A.Prakash
54. M.Shantha
55. R.Rajalakshmi
56. C.Subramani
57. S.Veeran
58. A.Chellamuthu
59. P.Mahalingam
60. P.Veeran
61. M.Nachimuthu
62. R.Raji
63. S.Rajavel
64. M.Velmani
65. S.Rathinam
66. K.Maadhan
67. K.Madhesh
68. P.Govindaraj
69. A.Ilango
70. T.Palanisamy
71. P.Sivagami
72. Senthil
73. D.Malathi
74. S.Ramaeeswaran

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal, set aside the order & Judgment of the learned Judge made in W.P.No.19524 of 2012 dated 21.09.2012 and consequently dismiss the writ petition.

For Appellants : Mr.R.Kumaravel
Additional Government Pleader

For Respondents : Mr.B.Gopalakrishnan



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JUDGMENT

WEB COPY (Judgement of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ appeal had been directed against the order passed by the Writ Court in W.P.No.19524 of 2012 dated 21.09.2012, wherein this Court had directed the respondents therein to regularize the service of the petitioners therein from the date on which they completed three years of service on regular time scale of pay.

2. Pursuant to the order passed by the learned single Judge, the third appellant herein had regularized the service of the respondents herein as directed by this Court through an order dated 03.04.2013.

3. In the interregnum, a Full Bench of this Court in the case of ***The Dhanasekaran and Ors. Vs. Government of Tamil Nadu and Ors.*** reported in ***[2013 (6) CTC 593]*** had held that the employees are not eligible for regularization from the date on which they completed three years of service, but only from the date of issuance of the Government Order in G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.2006.



4. It is also brought to the notice of this Court that the Full Bench Judgment in ***Dhanasekaran's*** case (cited supra) was subject to review before the another Full Bench of this Court and the Full Bench had allowed the Review in Review Application (MD) No.87 of 2014. As against which, the Government had preferred Special Leave Petition in SLP.(C).No.19874 of 2017 and the same is pending before the Hon'ble Apex Court.

5. In the present case, pursuant to the impugned order in this writ appeal, the third appellant herein had issued proceedings dated 03.04.2013 regularizing the service of the respondents herein. The Full Bench judgment in ***Dhanasekaran's*** case (cited supra) came to be passed by this Court on 29.11.2013. Thereafter, the second appellant herein by proceedings dated 20.03.2014 had issued directions to all the Commissioners (except Chennai) and the Municipal Commissioners to stop further action on the orders issued earlier regarding regularization of the consolidated pay employees with retrospective effect, till the orders of the Government are received. The instant writ appeal had been filed on the strength of the Full Bench Judgment in ***Dhanasekaran's*** case (cited supra) and the circular issued by the second respondent dated 20.03.2014.



6. When the Full Bench judgment in ***Dhanasekaran's*** case (cited *supra*) had been reviewed by a subsequent Full Bench, the ratio laid down by the Full Bench in ***Dhanasekaran's*** case (cited *supra*) is no longer subjudice. Hence, the directions issued by the second appellant dated 20.03.2014 also becomes *non-est*.

7. In the present case, as noted earlier the order impugned in this writ appeal had been given effect to by the third appellant through his proceedings dated 03.04.2013 by regularizing the respondents herein. Further, the grounds raised in the intra-court appeal is only based upon the Full Bench Judgment. It is well settled principles of law that a judgment of a Court cannot be reviewed pursuant to a subsequent judgment, even if the same made by a Larger Bench. Be that as it may, in this case, admittedly, no other grounds have been raised by the appellants challenging the order impugned in this appeal. Further, having implemented the order passed by this Court impugned in this appeal, the appellants could not be heard to claim to be aggrieved persons. On that ground also, the appeal would have to fail.

8. It is brought to our notice that the respondents herein have not been granted the monetary benefits viz., based on the regular time scale



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of pay, in view of the proceedings dated 20.03.2014. We have already held that the said proceedings is an *non-est* proceedings, therefore, we are of the view that the respondents herein would also be entitled to receive the monetary benefits, however, the same shall be subject to the result of the SLP pending against the review application in Review Application (MD) No.87 of 2014.

9. In fine, this writ appeal is disposed of with a direction to the third appellant to disburse the monetary benefits to the respondents from their date of regularization on completion of three years subject to the outcome of the SLP. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
10.07.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

mp



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and
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